

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

CORNELL E. DAVIS,

Plaintiff,

v.

RODRIGUEZ, *et al.*,

Defendants.

1:25-cv-00368-JLT-BAM (PC)

ORDER GRANTING PLAINTIFF'S MOTION  
FOR LEAVE TO AMEND

ORDER DIRECTING CLERK OF COURT TO  
FILE AMENDED COMPLAINT LODGED  
ON OCTOBER 20, 2025 AS SECOND  
AMENDED COMPLAINT

Plaintiff Cornell E. Davis ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On September 26, 2025, the Court screened Plaintiff's complaint and granted him leave to file a first amended complaint within thirty days after service. (ECF No. 12.) The screening order was served on Plaintiff by mail on the same date. (*See* docket.)

On October 6, 2025, Plaintiff filed a notice of his updated address. (ECF No. 13.) On the following day, October 7, 2025, the Court's screening order was re-served on Plaintiff at his updated address. (*See* docket.)

On October 9, 2025, Plaintiff filed his first amended complaint, which was dated October 4, 2025. (ECF No. 14.) On October 20, 2025, Plaintiff lodged an amended complaint dated October 12, 2025. (ECF No. 15.) Although not entirely clear, Plaintiff may have lodged his amended complaint in response to the Court's re-service of its screening order. Regardless, the

1 Court will construe Plaintiff's lodged amended complaint as a motion for leave to amend.

2 Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's  
3 pleading once as a matter of course at any time before a responsive pleading is served.

4 Otherwise, a party may amend only by leave of the court or by written consent of the adverse  
5 party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). "Rule 15(a)  
6 is very liberal and leave to amend shall be freely given when justice so requires."

7 *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006) (citation and  
8 quotation omitted). However, courts "need not grant leave to amend where the amendment: (1)  
9 prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation;  
10 or (4) is futile." *Id.*

11 In considering the relevant factors, the Court finds no evidence of prejudice, bad faith,  
12 undue delay in litigation, or futility. To the extent Plaintiff's lodged amended complaint was filed  
13 in response to the Court's re-service of its screening order, it is timely. Plaintiff's first amended  
14 complaint has not yet been screened, and no defendants have been served or appeared in this  
15 action. Accordingly, Plaintiff's motion to amend shall be granted, and the Court will direct the  
16 Clerk of the Court to file his lodged amended complaint as a second amended complaint. The  
17 Court will screen Plaintiff's second amended complaint in due course.

18 Accordingly, IT IS HEREBY ORDERED as follows:

- 19 1. Plaintiff's motion for leave to file an amended complaint, (ECF No. 15), is GRANTED;
- 20 2. The Clerk of the Court is DIRECTED to file the amended complaint lodged on October  
21 20, 2025, (ECF No. 15), as the second amended complaint; and
- 22 3. Plaintiff's second amended complaint will be screened in due course.

23  
24 IT IS SO ORDERED.

25 Dated: October 23, 2025

26 /s/ Barbara A. McAuliffe  
27 UNITED STATES MAGISTRATE JUDGE  
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